



## **Economic Impact Analysis Virginia Department of Planning and Budget**

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**12 VAC 30-120 – Alzheimer’s Assisted Living Waiver**  
**Department of Medical Assistance Services**  
October 23, 2009

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### **Summary of the Proposed Amendments to Regulation**

The Board of Medical Assistance Services (Board) proposes to revise the regulations that govern the Alzheimer’s Assisted Living Waiver program so that they conform to Department of Social Services (DSS) regulations for assisted living facilities. The specific substantive changes that the Board proposes will:

- Allow any Licensed Health Care Professional (LHCP) to meet on-site staffing requirements so long as that LHCP is compliant with all other laws and regulations that govern scope of practice,
- Allow any LHCP that are legally allowed to dispense medicine to do so in assisted living facilities,
- Reduce, from 19 to 16, the number of required combined group and individual activity hours per week and
- Allow volunteers to run activities counted toward the required group activity hours.

The Board is making these changes to the waiver regulations so that more assisted living facilities will participate in the program. Currently only seven facilities accept these waivers.

### **Result of Analysis**

The benefits likely exceed the costs for all proposed changes.

### **Estimated Economic Impact**

Currently, waiver program regulations require that a registered nurse (RN), or a licensed practical nurse (LPN) working under the supervision of an RN, be awake, on duty and on

premises for eight hours a day, five days a week. These regulations also currently require that medication be dispensed by an RN or LPN except between 11PM and 7AM. During these hours, medication aides may dispense medication. Currently LHCP at facilities that participate in the waiver program must supervise at least 19 hours of planned activities, including one hour of individualized activity, for patients each week.

These proposed regulations will allow any LHCP to be awake, on duty and on premises for at least eight hours a day five days a week so long as they are working within their legal scope of practice and are in compliance with licensure regulations. The proposed regulations will also allow registered medication aides to dispense medication on all work shifts and will allow volunteers, as well as LHCP, to supervise group and individualized activities. These proposed regulations reduce the number of required activity hours to 16, 1 of which must be offered to patients for one-on-one activities; this is the number of hours required by DSS facility licensure regulations.

These changes will allow more assisted living facilities to participate in this waiver program without incurring greater expense because of waiver program requirements that are more stringent than those in state law and DSS assisted living facility licensing regulations. Patients that are eligible for these waivers will also likely benefit from having more assisted living facilities participate in the waiver program as this will increase their housing choices. Because these regulatory changes represent current practice in the vast majority of assisted living facilities, no entity is likely to be harmed by them.

## **Businesses and Entities Affected**

The Department of Medical Assistance Services (DMAS) reports that DSS currently licenses 114 assisted living facilities that can enroll in this waiver program (seven of these are currently enrolled). All of these facilities, as well as the patients that live in them, are potentially affected by these proposed regulations.

## **Localities Particularly Affected**

No locality will be particularly affected by this proposed regulatory action.

## **Projected Impact on Employment**

This regulatory action will likely have no aggregate impact on employment in the Commonwealth.

## **Effects on the Use and Value of Private Property**

This regulatory action will likely have no effect on the use or value of private property in the Commonwealth.

## **Small Businesses: Costs and Other Effects**

Small businesses in the Commonwealth are unlikely to incur any costs on account of this regulatory action.

## **Small Businesses: Alternative Method that Minimizes Adverse Impact**

Small businesses in the Commonwealth are unlikely to incur any costs on account of this regulatory action.

## **Real Estate Development Costs**

This regulatory action will likely have no effect on real estate development costs in the Commonwealth.

## **Legal Mandate**

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.H of the Administrative Process Act and Executive Order Number 36 (06). Section 2.2-4007.H requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. Further, if the proposed regulation has adverse effect on small businesses, Section 2.2-4007.H requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the

type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.